

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

RACHEL D. BINAKONSKY, *on behalf of
herself and all others similarly situated,*

Plaintiff,

v.

JM BRANDS LLC,

Defendant.

Civil Action No. 2:21-cv-00444-NR

**DEFENDANT JM BRANDS LLC’S MOTION TO DISMISS
PLAINTIFF’S COMPLAINT**

Pursuant to Federal Rules of Civil Procedure (“FRCP”) 9(b), 12(b)(1), and 12(b)(6), Defendant JM Brands LLC (“JM Brands”), by and through the undersigned counsel, hereby moves to dismiss with prejudice Plaintiff Rachel D. Binakonsky’s (“Plaintiff” or “Ms. Binakonsky”) Class Action Complaint (D.E. 1). The grounds for this Motion are set forth in JM Brands accompanying Memorandum of Law filed herewith. JM Brands respectfully requests oral argument on its Motion, unless the Court decides to grant relief in its favor based on the full briefing papers presented.

DATED: June 21, 2021

Respectfully submitted,

By: s/ Erica L. Yohe

Erica L. Yohe
PA I.D. #89934
SEYFARTH SHAW LLP
233 South Wacker Dr.
Suite 8000
Chicago, IL 60606
Tel: (312) 460-5148
eyohe@seyfarth.com

Of Counsel:

Renée B. Appel
Tonya M. Esposito
SEYFARTH SHAW LLP
975 F Street NW
Washington, D.C. 20814
Tel: (202) 463-2400
rappel@seyfarth.com
tesposito@seyfarth.com

Kristine R. Argentine
SEYFARTH SHAW LLP
233 South Wacker Dr.
Suite 8000
Chicago, IL 60606
Tel: (312) 460-5000
kargentine@seyfarth.com

Attorneys for Defendant JM Brands LLC

CERTIFICATE OF CONFERRAL

I, Erica Yohe, counsel for Defendant JM Brands LLC, hereby certify that the parties conferred in good faith but were unable to reach an agreement to resolve the pleading deficiencies raised in Defendant's motion.

Dated: June 21, 2021

s/ Erica L. Yohe
Erica L. Yohe

CERTIFICATE OF SERVICE

I hereby certify that on this 21st day of June 2021, I electronically filed the foregoing document with the Clerk of Court using the CM/ECF system, which will send notification of such filing to all counsel of record.

s/ Erica L. Yohe
Erica L. Yohe